

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:19 CR 003**

UNITED STATES OF AMERICA,)	
)	
)	
v.)	ORDER
)	
WILLIAM RICHARD HILLIARD, JR.,)	
)	
Defendant.)	
)	

This matter is before the Court upon Defendant's Motion to Excuse Local Counsel or Alternatively to Continue Arraignment (Doc. 17) filed on January 18, 2019.

I. BACKGROUND

Defendant was originally charged by way of a criminal complaint and affidavit (Doc. 3) filed on December 13, 2018.

An Initial Appearance was held before Magistrate Judge David Keesler on December 18, 2018.

On December 21, 2018, Chad Axford entered his appearance as local counsel for Defendant (Doc. 10). He also filed a Motion for Admission Pro Hac Vice and Affidavit (Doc. 11), which sought the *pro hac vice* admission of Russell B. Long.

Also on December 21, 2018, preliminary and detention hearings for Defendant were held before the undersigned. Mr. Axford and Mr. Long both appeared at those proceedings. Probable cause was found and Defendant was detained.

By Order signed that same day (and entered on December 26, 2018), the Court admitted Mr. Long to appear *pro hac vice* in this matter while associated with local counsel. (Doc. 14).

On January 16, 2019, a forty-two-count indictment was filed against Defendant (Doc. 16).

On January 18, 2019, the Clerk's Office issued a notice through the electronic case management system scheduling Defendant's Arraignment for January 23, 2019.

Mr. Axford filed the instant Motion (Doc. 17) the same day. In the Motion, Mr. Axford indicated that he was scheduled to be out of North Carolina on January 23, 2019. Id. at 1. Consequently, he requested that Mr. Long be allowed to appear alone with Defendant at Defendant's Arraignment on January 23 or, alternatively, that Defendant's Arraignment be continued. (Doc. 17) at 2. Counsel for the Government consented. Id.

A Text Order was entered on January 22, 2019, excusing Mr. Axford from the Arraignment and denying the request to continue the Arraignment. This written Order now follows.

II. DISCUSSION

A. Continuance of Arraignment

The undersigned does not find the stated basis of the Motion (Doc. 17)—described only as Mr. Axford's plans to be out of North Carolina on January 23, 2019—to be a sufficient ground upon which to continue Defendant's Arraignment, particularly given the gravity of the charges contained in the Bill of Indictment (Doc. 16).

B. Appearance at Arraignment

Matters involving counsel in criminal cases, including admission and appearance issues, are governed in large part by Local Criminal Rule 44.1, which itself adopts Local Civil Rules 83.1 and 83.2. Of specific relevance here is the requirement in Local Civil Rule 83.1 that an attorney who is admitted to practice *pro hac vice* must “be accompanied by local counsel at all hearings unless otherwise permitted by the Court.” L.Cv.R. 83(b)(1).

The Court takes the obligations of local counsel, including the duty to appear at hearings, seriously and requests to be relieved from those duties are not easily allowed. Having considered the factors surrounding the instant circumstances, including Mr. Axford’s pre-existing plans and the timing of the notice of the Arraignment and the proceeding itself in relation to an extended holiday weekend, the Court will excuse Mr. Axford from attending Defendant’s Arraignment on January 23, 2019 and will allow Mr. Long to appear unaccompanied with Defendant.

Mr. Axford should not anticipate being excused from future hearings, however, and should be fully prepared to participate in all proceedings personally as indicated by the Local Rules.

IT IS THEREFORE ORDERED THAT:

1. To the extent the Motion requests that Defendant’s Arraignment be continued, the Motion (Doc. 17) is **DENIED**.
2. To the extent the Motion requests that Mr. Axford be excused from attending Defendant’s Arraignment on January 23, 2019, the Motion (Doc. 17) is

GRANTED, and Mr. Long is allowed to appear alone as lead counsel for Defendant, having been admitted *pro hac vice*.

Signed: January 23, 2019



W. Carleton Metcalf
United States Magistrate Judge

